

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PHILLIP J. LYONS,

Plaintiff(s),

vs.

JAMES G. COX, et al.,

Defendant(s).

Case No. 2:14-cv-00046-RFB-NJK

ORDER

(Docket No. 50)

Pending before the Court is the unopposed motion to stay discovery filed by Defendants United States and United States Marshal Christopher Hoyer. Docket No. 50. In particular, Defendants seek a stay of discovery pending resolution of their motion to dismiss. *See* Docket No. 41 (motion to dismiss). The Court finds the matter properly resolved without oral argument. *See* Local Rule 78-2. For the reasons discussed below, the motion to stay is hereby **GRANTED**.

“The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced that the plaintiff will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).¹

¹ Conducting this preliminary peek puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. *See*

1 Having reviewed the underlying motion to dismiss, the Court finds that these elements are
2 present in this case and **GRANTS** the motion to stay discovery. If the motion to dismiss is not granted
3 in full, the parties shall file a proposed discovery plan within seven days of the issuance of the order
4 resolving the motion to dismiss.

5 IT IS SO ORDERED.

6 DATED: August 12, 2015

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NANCY J. KOPPE
United States Magistrate Judge

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26 *Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion is not
27 intended to prejudice its outcome. *See id.*